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ACTION EA-12
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E.O. 12065: N/A
TAGS: SHUM PINS KS
SUBJECT: KIM DAE JUNG APPELLATE TRIAL (REPORT NO. 6)
REF: SEOUL 14304
1. SUMMARY: COURT WENT INTO CLOSED SESSION WITH DEFENSE AND PROSECUTION LAWYERS ON THE AFTERNOON OF OCTOBER 29. CLOSED SESSION WAS TO CONSIDER DEFENDANTS' PROTESTS AGAINST COURT DECISION NOT TO ADMIT FURTHER EVIDENCE FOR THE DEFENSE. WHEN COURT RESUMED, DEFENDANTS' CONTINUED PROTESTS LED TO ADJOURNMENT OF THE COURT. TRIAL RESUMED ON THE MORNING OF OCTOBER 30 AND JUDGES ORDERED DEFENSE ATTORNEYS TO BEGIN CLOSING ARGUMENTS. DEFENDANTS, IN A PARTICULARLY STORMY SESSION, AGAIN PROTESTED THE COURT DECISION NOT TO ADMIT NEW DEFENSE EVIDENCE. DEFENDANTS WERE ORDERED OUT OF THE COURTROOM FOR DISRUPTING THE PROCEEDINGS. FAMILY MEMBERS WALKED OUT IN PROTEST. DEFENSE LAWYERS THEN MADE THEIR CLOSING ARGUMENTS WITHOUT
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EITHER DEFENDANTS OR FAMILY MEMBERS BEING PRESENT. THE AFTERNOON SESSION ON OCTOBER 30, WHICH WAS TO INCLUDE THE CLOSING STATEMENTS OF THE DEFENDANTS, BEGAN WITH DEFENDANT MUN IK-HWAN STATING THAT THE DEFENDANTS DID NOT RECOGNIZE THE AUTHORITY OF A COURT "WHICH ALLOWED A 'COMMUNIST SPY' AS WITNESS FOR THE PROSECUTION BUT REFUSED ALL EVIDENCE AND WITNESSES SUBMITTED BY THE DEFENSE." HE SAID THAT HE AND HIS FELLOW DEFENDANTS WERE LEAVING. A LEGAL OFFICER STATED THAT THE COURT CONSIDERED THAT THE DEFENDANTS HAD WAIVED THEIR RIGHT TO MAKE FINAL STATEMENTS AND SAID THAT THE COURT WAS ADJOURNED UNTIL FURTHER NOTICE. END SUMMARY.
2. THE COURT BEGAN ITS OCTOBER 29 AFTERNOON SESSION AT APPROXIMATELY 2:10 P.M. MOST FAMILY MEMBERS WERE NOT PRESENT DUE TO THEIR WALKOUT IN THE MORNING IN PROTEST OF YUN BYO-TONG'S (M-R) TESTIMONY. THE DEFENDANTS BEGAN THE
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SESSION BY MAKING A VIGOROUS PROTEST AGAINST YUN'S APPEARANCE IN THE COURT. DEFENDANTS ALSO ASKED WHAT NEW DEFENSE EVIDENCE WOULD BE ADMITTED. THE COURT INFORMED THEM THAT NO NEW EVIDENCE FOR THE DEFENSE WOULD BE ADMITTED AND THAT DEFENSE COUNSEL SHOULD PROCEED WITH THEIR CLOSING ARGUMENTS. DEFENDANTS WERE ANGERED THAT THE COURT HAD NOT PREVIOUSLY STATED FOR THE RECORD THAT NO NEW DEFENSE EVIDENCE WOULD BE ACCEPTED AND SHOUTED OUT THEIR PROTESTS. DEFENDANT MUN IK-HWAN (M-R) PROTESTED LOUDLY THAT WITNESS YUN'S TESTIMONY AMOUNTED TO CONTEMPT OF COURT SINCE HE USED COMMUNIST TERMINOLOGY. MUN SAID HE WANTED AN OPPORTUNITY TO DIRECTLY QUESTION YUN. OTHER DEFENDANTS SAID THEY WANTED TO INTRODUCE ADDITIONAL WITNESSES. THE COURT DISMISSED THESE REQUESTS FROM THE DEFENDANTS AND WENT INTO CLOSED SESSION AT 2:20.

3. THE COURT RESUMED THE SESSION AT 4:05 P.M., AGAIN

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ANNOUNCING THAT NO NEW DEFENSE EVIDENCE WOULD BE ADMITTED AND ORDERING DEFENSE COUNSEL TO BEGIN CLOSING STATEMENTS. THE DEFENDANTS, LED BY MUN IK-HWAN, BEGAN LOUD PROTESTS AGAINST THIS DECISION. THE PRESIDING JUDGE THEN ORDERED THE THIRTEEN DEFENDANTS CHARGED WITH INSURRECTION REMOVED FROM THE COURT FOR DISTURBING THE PROCEEDINGS. THE REMAINING ELEVEN OTHER DEFENDANTS, CHARGED FOR VIOLATION OF MARTIAL LAW, ALSO ATTEMPTED TO LEAVE THE COURTROOM WITH THEIR CO-DEFENDANTS BUT WERE RESTRAINED BY THEIR GUARDS. DEFENDANTS YI HAE-TONG (M-R), YU IN-HO (M-R) AND HAN SUNG-HON (M-R) LED THE PROTEST BY REFUSING TO SIT DOWN. THE COURT RECESSED FOR TEN MINUTES WHILE THE GUARDS TRIED TO PERSUADE THE DEFENDANTS TO SIT. "LET ME OUT OF THE COURT*" YI HAE-TONG DEMANDED. YU IN-HO SAID, "WE PROTEST THE APPEARANCE OF A COMMUNIST AS A WITNESS*" HAN SUNG-HONG SAID THAT THE COURT HAD "EXCITED" THE DEFENDANTS BY NOT FOLLOWING PROPER PROCEDURES. OTHERS CALLED OUT DEMANDING THAT THE FIRST GROUP OF DEFENDANTS BE BROUGHT BACK TO COURT. "BETTER WE SHOULD BOYCOTT THE TRIAL," ONE SHOUTED. "THE RESULTS WILL BE THE SAME EVEN IF WE WALK OUT."

4. THE COURT RESUMED SESSION BUT THE THREE DEFENDANTS MENTIONED ABOVE REFUSED TO TAKE THEIR SEATS. ALL THREE DEMANDED AGAIN THAT THE OTHER THIRTEEN DEFENDANTS BE BROUGHT BACK INTO COURT. THE COURT REPLIED THAT IT HAD DECIDED TO TRY THE TWO GROUPS SEPARATELY, SINCE THE ELEVEN IN COURT WERE CHARGED WITH LESSER OFFENSES. HE ASKED THE DEFENDANTS AGAIN TO COOPERATE BY SITTING DOWN. AT THIS POINT, YI HAE TONG, YU IN HO (M-R) KIM YUN SIK (M-R), AND SO NAM TONG (M-R) WERE ALLOWED TO WALK OUT OF COURT. ONE OF THE JUDGES THEN SUGGESTED THAT THE PROCEEDINGS BEGIN AGAIN WITH THE REMAINING EIGHT DEFENDANTS. DEFENDANT HAN SUNG HON RESPONDED BY

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WALKING OUT OF COURT. DEFENDANT HAN WAN SANG (M-R)
REQUESTED THAT THE COURT POSTPONE THE PROCEEDINGS UNTIL
THE NEXT DAY. THE COURT RESPONDED WITH THE SUGGESTION
THAT DEFENDANT KIM NOK-YONG'S CASE ALONE BE HEARD SINCE
HE IS VERY SICK. DEFENDANT KIM REPLIED THAT HE DID NOT
WANT TO HAVE HIS CASE TRIED ALONE. HE WANTED TO BE TRIED
WITH HIS FELLOW DEFENDANTS. THE COURT THEN ADJOURNED
AT 4:50 P.M.
5. THE SIXTH SESSION OF THE APPEALS TRIAL BEGAN ON
THE MORNING OF OCTOBER 30 AT 10 A.M. WITH DEFENSE LAWYER
SIN HO YANG STATING THAT THE DEFENDANTS WANTED TO
CHALLENGE THE COURT'S DECISION NOT TO ADMIT EVIDENCE
FOR THE DEFENSE. HE SAID THE DEFENDANTS CONSIDERED
THE JUDICIAL PANEL TO BE IN ERROR IN THIS DECISION AND
THEREFORE THE DEFENDANTS CHALLENGED THE AUTHORITY OF THE
COURT. A LEGAL OFFICER TOLD LAWYER SIN TO SUBMIT HIS
PROTESTS IN WRITING. THE OFFICER ADDED THAT THREE
FAMILY MEMBERS HAD BEEN DENIED PASSES DUE TO THEIR
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DISRUPTIVE BEHAVIOR AND SAID THAT ORDER WOULD BE
MAINTAINED IN THE COURT.
6. THE DEFENDANTS AGAIN SHOUTED OUT PROTESTS: "WHAT
ABOUT THE ADMITTANCE OF EVIDENCE AND THE TESTIMONY
OF WITNESSES FOR THE DEFENSE?" THE DEFENDANTS CALLED
FOR A HALT TO THE PROCEEDINGS AS THE COURT ORDERED DEFENSE
COUNSEL TO PROCEED WITH CLOSING ARGUMENTS. WHEN
DEFENSE ATTORNEY KIM SUK HYON (M-R) BEGAN HIS CLOSING
ARGUMENTS IN COMPLIANCE WITH THE COURT'S ORDER, HIS
CLIENT YI HAE CH'AN (M-R) ROSE AND SHOUTED, "YOU SON OF
A BITCH". THE ATTORNEY AND CLIENT THEN GOT INTO A HEATED
ARGUMENT IN FRONT OF THE COURT. AS A RESULT, ALL
DEFENDANTS WERE ORDERED OUT OF THE COURTROOM FOR
DISTURBING THE PROCEEDINGS. ONE DEFENDANT SHOUTED "I

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OFFICERS REQUESTED THAT THE DEFENDANTS MAKE FINAL STATE-
MENTS. THEN, IN A DRAMATIC AND SYMBOLIC GESTURE, ALL
THE DEFENDANTS ROSE AND SANG THE KOREAN NATIONAL ANTHEM.
THE GUARDS TRIED TO RESTRAIN THEM, BUT THEY SANG ON, AND
SOME OF THE FAMILY MEMBERS PRESENT THEN ROSE AND JOINED
IN. DEFENDANT SONG KI WON (M-R) SHOUTED THAT ALL THE
DEFENDANTS WOULD BEGIN A HUNGER STRIKE IN PROTEST. AS THE
DEFENDANTS WERE LED OUT OF COURT, FAMILY MEMBERS SHOUTED
GOOD-BYS AND SCREAMED THAT THE TRIAL WAS A "TRAVESTY OF
JUSTICE". DEFENDANT CHO SONG U (M-R)'S MOTHER,
OVERCOME WITH EMOTION, SANK TO THE FLOOR, SOBBING "MY
SON, MY SON, WHEN WILL I SEE HIM AGAIN?" SHE HAD TO BE
CARRIED BODILY FROM THE COURTROOM BY PLAINCLOTHES
POLICEMEN.
11. CHIEF LEGAL OFFICER CHANG TONG WAN (M-R) STATED
THAT THE COURT CONSIDERED THAT THE DEFENDANTS "HAD WAIVED
THEIR RIGHT TO MAKE A FINAL STATEMENT." THE COURT THEN
ADJOURNED AT 2:20 P.M. WITH A STATEMENT THAT THE DATE OF
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SENTENCING WOULD BE ANNOUNCED LATER.
12. THE REPORTING OF THE KIM DAE JUNG TRIAL IN THE KOREAN
PRESS APPEARS RATHER SLANTED. PAPERS ON OCTOBER 32
CARRIED BANNER HEADLINES THAT THE PROSECUTION AGAIN
ASKED FOR THE DEATH PENALTY FOR KIM DAE JUNG AND STIFF
PENALTIES FOR THE OTHER DEFENDANTS IN THE OCTOBER 29
SESSION. HOWEVER, NEITHER EMBOFF NOR KOREAN NATIONAL
EMPLOYEE WHO WERE PRESENT AT THE SESSION HEARD ANY SUCH
PUBLIC STATEMENT BY THE PROSECUTION. THE REPORTS, WHILE
GIVING SOME OF THE BACKGROUND OF WITNESS YUN HYO-TONG,
DID NOT MENTION THE DEFENDANTS' PROTESTS AGAINST YUN'S
TESTIMONY, NOR THE DEFENDANTS' PROTESTS OF THE COURT'S
REFUSAL TO HEAR EVIDENCE OR TESTIMONY FOR THE DEFENSE.
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